

SECTION 2 – ITEM 9

Application No: 20/P/0725/FUL

Proposal: Retrospective application for the change of use from care home to 10 bedroom HMO (House in Multiple Occupation) (Sui Generis Use).

Site address: 15 Clarence Road East, Weston-super-Mare, BS23 4BP

Applicant: Mrs Tracy Mott

Target date: 14.07.2020

Extended date: 18.09.20

Case officer: Mike Cole

Parish/Ward: Weston-super-Mare/Weston-super-Mare Central

Ward Councillors: Councillor Robert Payne and Councillor Mike Bell

REFERRED BY COUNCILLOR PAYNE

Summary of recommendation

It is recommended that the application be **APPROVED** subject to conditions. The full recommendation is set out at the end of this report.

The Site

The application site is located within a residential area of Weston super Mare on the eastern side of Clarence Road East north of its junction with Quantock Road. The site comprises a 2 storey semi-detached Victorian villa (with some accommodation in the roof space) previously used as a care home. Residential properties adjoin the site on its northern and eastern boundaries. To the south there is a purpose-built block of flats of post war origin.

The Application

Full permission is sought for:

- A retrospective change of use of the premises from a elderly persons care home to use as a house in multiple occupation with 10 letting rooms
- Existing car parking area in front curtilage retained (3 spaces)
- Additional cycle parking facility to rear

Relevant Planning History

No recent planning history

Policy Framework

The site is affected by the following constraints:

- Within settlement boundary
- Within conservation area
- NS and Mendip Bats SAC: Greater Horseshoe Bat Zone C

The Development Plan

North Somerset Core Strategy (NSCS) (adopted January 2017)

The following policies are particularly relevant to this proposal:

CS1	Addressing climate change and carbon reduction
CS2	Delivering sustainable design and construction
CS12	Achieving high quality design and place making
CS13	Scale of new housing
CS14	Distribution of new housing
CS15	Mixed and balanced communities
CS16	Affordable housing
CS28	Weston super Mare
CS34	Infrastructure delivery and Development Contributions

Sites and Policies Plan Part 1: Development Management Policies (adopted 19 July 2016)

The following policies are particularly relevant to this proposal:

DM3	Conservation Areas
DM8	Nature Conservation
DM24	Safety, traffic and provision of infrastructure etc associated with development
DM28	Parking standards
DM34	Housing type and mix
DM36	Residential densities
DM37	Residential development in existing residential areas
DM39	Subdivision of properties
DM42	Accessible and adaptable housing and housing space standards
DM71	Development contributions, Community Infrastructure Levy and viability

Sites and Policies Plan Part 2: Site Allocations Plan (adopted 10 April 2018)

The following policy is particularly relevant to this proposal:

SA2 Settlement boundaries and extension of residential curtilages

National Planning Policy Framework (NPPF) (February 2019)

The following sections are particularly relevant to this proposal:

1 Introduction

- 2 Achieving Sustainable Development
- 4 Decision-taking
- 5 Delivering a sufficient supply of homes
- 11 Making effective use of land
- 12 Achieving well designed places
- 15 Conserving and enhancing the natural environment
- 16 Conserving and enhancing the historic environment

Supplementary Planning Documents (SPD) and Development Plan Documents (DPD)

- Residential Design Guide (RDG1) Section 1: Protecting living conditions of neighbours SPD (adopted January 2013)
- Residential Design Guide (RDG2) Section 2: Appearance and character of house extensions and alterations (adopted April 2014)
- North Somerset Parking Standards SPD (adopted November 2013)
- Creating sustainable buildings and places SPD (adopted March 2015)
- Development contributions SPD (adopted January 2016)
- North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD (Adopted January 2018)
- Accessible Housing Needs Assessment SPD (Adopted April 2018)

Consultations

Copies of representations received can be viewed on the council's website. This report contains summaries only.

Third Parties: Six letters of objection have been received. The principal planning points made are as follows:

- Inadequate parking provision and loss of existing parking
- Increase in traffic
- Noise nuisance
- Over development and out of keeping with character of area

Weston super Mare Town Council: "The Town Council object to the proposal which is in the designated conservation area which means restrictions apply around visual impact. We understand it is not currently as a registered HMO, neither is it being used as a care home but for rehabilitation instead. These matters require further investigation by the case officer prior to planning consideration."

Other Comments Received:

Police Architectural Liaison

No objection or comments.

Housing Standards Officer

The property is in a satisfactory condition. The manager does adhere to the regulations regarding any dis-repair to the property. The services and facilities are in a usable condition.

Principal Planning Issues

The principal planning issues in this case are (1) the principle of development, (2) impact on neighbours, (3) impact on character and appearance (4) parking and highways, (5) Use as an HMO, (6) protected species (bats) (7) setting of listed building and Conservation Area and (8) community infrastructure levy.

Issue 1: The principle of development

Proposals for such changes of use are assessed primarily against Policy DM39 of the Sites and Policies Plan Part 1. This states that outside areas of restricted sub-division but within settlement boundaries, the conversion of dwellings and other buildings, including extensions and outbuildings to form self-contained accommodation and Houses in Multiple Occupation (HMO's) will be permitted provided that:

- the proposals will not have a harmful effect on the character and living conditions of the property, adjoining properties and local area; and
- a satisfactory standard of accommodation and living conditions are provided and that the proposal does not create an over-intensive use of the site; and
- the development will not singularly or cumulatively contribute to an unacceptable change in the balance of types of properties in one street or area; and
- parking should meet the councils parking standards.

It should also be noted that HMOs count as part of the 5 year housing supply but as the provision of one dwelling as such, the Council's 5 year housing land supply position should also be considered. Currently the Council can only demonstrate 4.4 years supply of housebuilding land. In this respect paragraph 11 of the NPPF states that:

“Plans and decisions should apply a presumption in favour of sustainable development.....

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

In this context, “out of date” includes applications involving the provision of housing, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in NPPF paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 12 of the NPPF says that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. A shortfall in housing supply is one of those considerations.

In terms of the sustainability of the site, Government advice is to use brownfield sites in urban areas to reduce the need for private car journeys. As such the change of use to 1 dwelling makes a small contribution towards meeting housing need within the authority area and is in a sustainable location, therefore this consideration should be given substantial weight.

These issues are explained further below.

Issue 2: Impact on neighbours

The proposed development comprises a change of use of an existing building and as such has no physical impact on neighbouring properties. The concerns expressed by neighbours over the change in character of the use are noted and have been carefully assessed. However, there are few other HMO's in the locality and the authorisation of this change of use will not have the effect of changing the character of the area resulting in an unacceptable change in the balance of properties in this street.

The comments of the Housing Standards Officer indicate that the premises are well run and the facilities on offer result in an acceptable standard of accommodation. This serves to give additional re-assurance.

The building complies with the relevant tests contained within the Residential Design Guide (Section 1: Protecting living conditions of neighbours) and would not result in a significant adverse impact upon the living conditions of neighbouring residents. In this respect, the proposal complies with policies DM32 and DM39 of the Sites and Policies Plan (Part 1).

Issue 3: Impact on character and appearance

The proposal, involves the change of use of an existing building, which is a 2 storey Victoria building which was used as a nursing home.

As such it is considered that the change of use from a nursing home to an HMO would not unacceptably harm the characteristics of the existing building or change the character of its surroundings. The proposals involve the retention of the existing parking area in the front garden area and the addition of a small building to the rear, to serve as the facility for the cycle parking.

It should be noted that the use is retrospective and has been in operation for a number of years and no planning or housing complaints have been received about its use.

The area contains a mix of residential properties many of which are Victorian properties and many of which are subdivided into flats as well as single family houses. There are no other HMOs in close proximity to the site although there are a 3 in the wider area to the south. As such it is considered that the proposed HMO will not unacceptably harm or change the character of the area or lead to an unacceptable change in the balance of types of properties in Clarence Road East or the area. Nor would it affect the Conservation Area.

Such changes to the appearance of the site are considered insignificant and it will not unacceptably harm or change the character of the existing building and area. It is concluded that the proposal complies with policy CS12 of the Core Strategy and policies DM3, DM32 and DM39 of the Sites and Policies Plan (Part 1).

Issue 4: Parking and Highways

Reference to the Parking Standards SPD indicates that there is no specific standard for HMO's and levels of car ownership are likely to be low. In this light it is concluded that the use of the property as a HMO has little impact on the availability of on street parking in the vicinity and that the existing 3 spaces in the front garden that served the former use are adequate to cater for the use. The proposed cycle parking can be secured by condition. The development is considered to be in compliance with policy DM28 of the Sites and Policies Plan Part 1 on this basis

Issue 5: Use as a House in Multiple Occupation (HMO)

Under the planning legislation a property which has more than six unrelated residents living in it is considered to be an HMO which is in its own use class and planning permission is required to change the use from the previous use as an elderly person's care home to an HMO.

It is understood that the property has been used as an HMO since 2015.

Properties that are used as Houses in Multiple Occupation (HMO's) depending upon their size and the number of occupiers need to be licensed with the Councils housing team as an HMO. This requirement is not a planning consideration and is dealt with separately from any planning considerations. The property is licensed as an HMO.

Issue 6: Protected species; bats

The site is not likely to be used by bats, given the urban location. Furthermore, no changes to the fabric of the building are proposed that might adversely affect any protected species. No other action is considered necessary given this. In this respect,

regard has been paid to the requirements of the Conservation of Habitats and Species Regulations 2017 and the Natural Environment and Rural Communities Act 2006, and to policy CS4 of the North Somerset Core Strategy, policy DM8 of the Sites and Policies Plan (Part 1) and the council's Biodiversity and Trees SPD.

Issue 7: Setting of Listed Building and Conservation Area

The proposal does not affect the setting of any listed buildings and does not affect the setting of the Conservation Area.

Issue 8: Community Infrastructure Levy

The Council's Community Infrastructure Levy (CIL) Charging Schedule took effect on 18 January 2018. This means that the development may be liable to pay the CIL. The Charging Schedule and supporting information can be viewed on the website at www.n-somerset.gov.uk/cil.

Natural Environment and Rural Communities (NERC) Act 2006

The proposed development will not have a material detrimental impact upon bio-diversity.

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

The proposed development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. A formal EIA screening opinion is not, therefore, required.

The Crime and Disorder Act 1998

The proposed development will not have a material detrimental impact upon crime and disorder.

Conclusion and tilted balance

It is concluded that the retention of this HMO will not have an adverse effect on the living conditions of neighbours given the lack of other such accommodation in the immediate area. The property has been inspected by the Council's Housing Standards Team and has been found to provide an acceptable standard of accommodation of this type. The development thus complies with the relevant clauses of policy DM39 as listed above.

The character of the area and conservation area is not adversely unaffected by the change of use given that it involves few external alterations. The development thus complies with policy CS12 of the Core Strategy and policies DM3, DM32 and DM39 of the Sites and Policies Plan (Part 1).

The parking capacity of the site is considered to be adequate to cater for the change of use given the characteristics of the residents that live in the accommodation, thus complying with policy DM28 of the SPPP1.

Protected species are unlikely to be affected by the change of use. The development will therefore comply with policy CS4 of the North Somerset Core Strategy, policy DM8 of the Sites and Policies Plan (Part 1) and the council's Biodiversity and Trees SPD.

It should also be noted that the use is retrospective and has been used for more than 5 years without any complaints to the planning and housing teams.

As the Council cannot demonstrate a 5 year housing land supply at present, Para. 11 of the NPPF advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (the so-called 'tilted balance' exercise). In this case the benefits of the development which would be for 1 dwelling on a brownfield site in a sustainable location would outweigh any adverse impacts. The proposal for 1 dwelling would make a contribution towards meeting housing need within the authority, therefore planning permission should be granted for the development.

RECOMMENDATION: APPROVE (for the reasons stated in the report above) subject to the following conditions:-

1. The development hereby permitted shall be carried out in accordance with the approved plans and documents to be listed on the decision notice.

Reason: For the avoidance of doubt and in the interest of proper planning.

2. Secure parking facilities for 10 bicycles shall be provided within 2 months of the date of this permission in accordance with the approved plans and specifications. The approved facilities shall thereafter be permanently retained and kept available for the parking of bicycles at all times.

Reason: To ensure that secure cycle parking facilities are provided in order to encourage the use of more sustainable transport choices and in accordance with policies CS1 and CS11 of the North Somerset Core Strategy, policy DM 28 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset Parking Standards SPD.

3. Space and facilities for the separate storage and collection of waste and recycling materials shall be provided within 2 months of the date of this consent in accordance with plans and specifications that have first been submitted to and approved, in writing, by the Local Planning Authority. The said space and facilities shall thereafter be made permanently available for the storage and collection of waste and recycling materials only in connection with the use hereby permitted.

Reason: The Local Planning Authority wishes to encourage sustainable recycling initiatives in the interests of local amenity and sustainable waste management and in accordance with policies CS1, CS3 and CS7 of the North Somerset Core Strategy and policy DM32 of the North Somerset Sites and Policies Plan (Part 1).

For advice on how to discharge this condition please refer to www.n-somerset.gov.uk/wastestorageconditions